

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



In re: x
CIRCUIT CITY STORES, INC., et al., . Chapter 11
Debtors. . Case No 08-35653 (KRH)
x Jointly Administered

**RESPONSE TO LIQUIDATING TRUST'S FORTY-THIRD OMNIBUS OBJECTION TO
LANDLORD CLAIM AND CONTRACTOR CLAIMS (REDUCTION OF CERTAIN
PARTIALLY INVALID CLAIMS, RECLASSIFICATION OF CERTAIN
MISCLASSIFIED CLAIMS, DISALLOWANCE OF CERTAIN INVALID CLAIMS,
DISALLOWANCE OF CERTAIN LATE FILED CLAIMS, AND DISALLOWANCE OF
CERTAIN AMENDED CLAIMS.)**

Berkadia Commercial Mortgage, LLC, ("Berkadia") successor-in- interest to Capmark Finance, Inc. on behalf of Bank of America National Association as Successor by Merger to LaSalle Bank National Association fka LaSalle National (the "Claimholder"), by and through its counsel Bryan Cave LLP, hereby files this Response to Liquidating Trust's Forty-Third Omnibus Objection to Landlord and Contractor Claims (Reduction of Certain Partially Invalid Claims, Reclassification of Certain Misclassified Claim, Disallowance of Certain Invalid Claims, Disallowance of Certain Late Filed Claims, and Disallowance of Certain Amended Claims)(the "Objection"), and states as follows:

1. The Bankruptcy Trustee has objected to the proof of claim number 9734 (the "Claim") filed by Claimholder alleging that the liabilities in claim 9734 are the same underlying liabilities included on claim 14363, and thus the proper claimant is unclear.

2. Claimholder held a mortgage on the real property located at 18701 East 39th Street, Independence, MO. The mortgagor on the property, CC-Independence, LLC, a Minnesota

limited liability company (the "Borrower") leased the property to Circuit City Stores, Inc. ("Circuit City") pursuant to a written lease dated February 22, 1995 (the "Lease"). The Lease and the rents thereunder were assigned by the Borrower to its lender in an Absolute Assignment of Leases and Rents, effective as of February 27, 1995 (the "Assignment of Leases and Rents"). The Assignment of Leases and Rents was subsequently conveyed to Claimholder.

3. The Assignment of Leases and Rents and the Lease are all attached as exhibits to Claimholder's proof of claim 9734.

4. Circuit City rejected the Lease.

5. Claimholder is the proper claimant for the liabilities underlying proof of claims 9734.

6. Claimholder also is the holder of the claim that is the subject of proof of claim 14363.

7. In addition to the fact that Circuit City rejected the Lease, the Assignments of Leases and Rents were conveyed to Claimholder.

8. Further, Claimholder has already foreclosed on and sold the property that is the subject of proof of claim 9734.

9. Accordingly, Claimholder is the proper claimant.

WHEREFORE, Claimholder respectfully requests that the Court (a) overrule the Objection as it relates to the Claim; (b) allow the Claim as provided in Claimholder's proof of claim; and (c) grant Claimholder such other and further relief as this Court deems appropriate under the circumstances.

Dated: June 24, 2012

BRYAN CAVE LLP

By:/s/ Philip J. Meitl

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AND

By:/s/ Keitha M. Wright

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Attorneys for Claimholder

CERTIFICATE OF SERVICE

The undersigned hereby states that on the 2nd day of July, 2012, a true and correct copy of the above foregoing instrument was sent to:

Clerk of the Bankruptcy Court
United States Bankruptcy Court
701 East Broad Street-Room 4000
Richmond, VA 23219

/s/ Phillip J. Meitl